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UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
_____

Ex parte BRIAN T. MURREN,
WALTER V. DIXON III,
and WILLIAM GORMAN
_____

Appeal 2009-001009
Application 09/847,067
Technology Center 2100
_____

Decided: January 13, 2010
_____

Before HOWARD B. BLANKENSHIP, CAROLYN D. THOMAS, and
JAMES R. HUGHES, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final
rejection of claims 1, 2, 4-15, 17-19, 30-34, 37, and 38, which are all the
claims remaining in the application. We have jurisdiction under 35 U.S.C.
§ 6(b).

We affirm-in-part.

Invention

Appellants' invention relates to automatically identifying a set of one or more attributes of a computer program that are to be input to the computer program by a user and output by the program. Abstract.

Representative Claims

1.   A method comprising:

accessing a computer program;

automatically identifying a set of one or more attributes of the computer program with values that are to be input to the computer program by a user; and

creating code for one or more forms including selected ones of the set of one or more attributes.

11.   A method comprising:

accessing a computer program, wherein the computer program includes a plurality of interactions that each include one or more command definitions and one or more view definitions, wherein each command definition defines a command having various attributes and a behavior, and wherein each view definition defines a view that is a response to a request; and

automatically identifying a set of one or more attributes of the computer program with values that are to be input to the computer program by a user wherein the automatically identifying comprises,

identifying, for each of the command definitions of each of the plurality of interactions, the methods of the command definition,

checking, for each identified method that sets a value, whether a corresponding identified method obtains the value, and

identifying, as an attribute of the set of one or more attributes, each attribute corresponding to a method that sets a value for the attribute for which there is no corresponding identified method that obtains the value for the attribute; and

outputting an identification of the set of one or more attributes.

37.   A method as recited in claim 1, wherein the creating is performed in a form generation procedure in which said one or more forms are developed, the form generation procedure being independent and antecedent to a user's interaction with the computer program via said one or more forms.

Prior Art

Kougiouris   2002/0039993 A1   Feb. 26, 2004

Examiner's Rejections

Claims 37 and 38 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement.

Claims 1, 2, 4-15, 17-19, 30-34, 37, and 38 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Kougiouris.

Claim Groupings

Based on Appellants' arguments in the Appeal Brief, we will decide the appeal with respect to the rejection over the prior art on the basis of claims 1, 11, 14, 30, and 37. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUES

(1)   Have Appellants shown that "the form generation procedure being independent and antecedent to a user's interaction with the computer program" as recited in claims 37 and 38 is supported by the application as originally filed?

(2)   Have Appellants shown that "creating code" as recited in claim 1 excludes initially creating the code as disclosed by Kougiouris?

(3)   Have Appellants shown that the Examiner has failed to establish that Kougiouris discloses "checking, for each identified method that sets a value, whether a corresponding identified method obtains the value" as recited in claim 11?

(4)   Have Appellants shown that the Examiner has failed to establish that Kougiouris discloses "identifying and generating are performed based on an analysis of computer program code, independent of execution of the computer program to provide one or more views" as recited in claim 14?

(5)   Have Appellants shown that the Examiner has failed to establish that Kougiouris discloses "automatically generating code" as recited in claim 30?

FINDINGS OF FACT

Kougiouris

1.   Figure 7 is a flowchart that illustrates an example of an application using a validating/formatting component to validate/format user interface input text. ¶ [0122].

2.   In step 606, the application may utilize a validating/formatting component in order to perform the check prompted by step 604, e.g., by obtaining an interface exposed by the component and using the interface to invoke a text validating method on the component (or an instance of the component), passing along the text to be validated. ¶ [0126].

3.   In step 608, the application receives the results from the validation operation performed by the validating/formatting component and uses the results to determine whether the text the user entered in the text field is valid, e.g., by checking a procedure return value or an output parameter value. ¶ [0127].

4.   If the application determines that the text the user entered in the text field is invalid, then in step 610 the application may inform the user of the invalid text. If the application determines that the text the user entered in the text field is valid, then in step 612 the application may utilize the validating/formatting component in order to format the text, e.g., by invoking a component method similarly as described above for step 606. For example, the component may format the text by inserting various types of demarcating characters, such as parentheses, dashes, spaces, etc., as appropriate for a particular type of text pattern or code. ¶¶ [0128]-[0129].

<div align="center">PRINCIPLES OF LAW</div>

<div align="center">*Written Description*</div>

To comply with the "written description" requirement of 35 U.S.C. § 112, first paragraph, an applicant must convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession of the invention. The invention is, for purposes of the "written description" inquiry, whatever is now claimed. *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563-64 (Fed. Cir. 1991).

<div align="center">*Claim Interpretation*</div>

During examination, claims are to be given their broadest reasonable interpretation consistent with the specification, and the language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Amer. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citations omitted). The Office must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification. *Id*. (citations omitted).

<div align="center">*Anticipation*</div>

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir. 1984).

For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single

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reference. However, this is not an "ipsissimis verbis" test. *In re Bond*, 910
F.2d 831, 832 (Fed. Cir. 1990).

ANALYSIS

Section 112 rejection of claims 37 and 38

The Examiner finds that the application as originally filed does not
provide a written description for a form generation procedure being
independent and antecedent to a user's interaction with the computer
program. Ans. 3.

Appellants rely on material at pages 30, 34, and 36 of the
Specification as originally filed as providing written description support for
the "independent and antecedent" language of the claims. Br. 10.

The Examiner submits that all three sections of the Specification that
are referenced by Appellants discuss automatically generating forms, but
there is not necessarily a teaching that the form generation is "independent
and antecedent" to a user's interaction with the program. Ans. 15. The
Examiner further argues that everything "automatic" must be initiated at
some point in time with user interaction, and that independent claim 1 (from
with claim 37 depends) requires accessing a program and "user input of
attributes" from which the code for forms is created. *Id.*

However, claim 1 does not require accessing user input of attributes,
but recites automatically identifying a set of one or more attributes of the
computer program with values that "are to be" input to the computer
program by a user. Moreover, the "user's interaction," from which the form
generation procedure is claimed as being "independent and antecedent," is

reasonably interpreted as referring to the interaction of an end user, rather than a software developer.

While the Specification as originally filed does not provide *in haec verba* support for instant claims 37 and 38, we agree with Appellants to the extent that the rejection fails to set forth a prima facie case for lack of written description support for the invention now claimed. We therefore cannot sustain the rejection under § 112, first paragraph.

Section 102 rejection of claims 1, 2, 4-10, and 37

Appellants contend that Kougiouris does not disclose "creating code" as recited in claim 1. Br. 14. In particular, Appellants contend that the coding exists as HTML or XML elements in the markup file that displays the GUI. Thus, according to Appellants, code is not "created" when the markup file is displayed as a GUI. Br. 16.

The Examiner finds that the timing of creating code is not claimed nor required by the claims. Ans. 17. The Examiner further finds that the claimed "creating code for one or more forms" is broad enough to encompass the initial creation of the code used by Kougiouris. *Id.*

We agree with the Examiner's claim interpretation. Instant claim 1 places no limitation on *when* the code is created. Appellants' arguments are not commensurate in scope with the invention that is claimed.

Appellants have failed to demonstrate error in the Examiner's rejection of claims 1, 2, 4-10, and 37 under 35 U.S.C. § 102(e).

Section 102 rejection of claims 11-13

Appellants contend that Kougiouris merely discloses checking user input, not checking an "identified method" as recited in claim 11. Br. 17. The claim recites, *inter alia*, "identifying, for each of the command definitions of each of the plurality of interactions, the methods of the command definition [and] checking, for each identified method that sets a value, whether a corresponding identified method obtains the value."

The Examiner apparently relies on Figure 7 of Kougiouris as disclosing the claimed "checking." *See* Ans. 9 and 18-19. The reference at Figure 7 shows an application invoking a "component method" in order to validate the text the user entered (step 606), and invoking a "component method" in order to format the text the user entered (step 612) in the event that the text is valid. *See also* Kougiouris ¶¶ [0122] - [0129].

Based on Figure 7, the Examiner finds that "Kougiouris teaches checking for an identified method that obtains the value in that the component method that formats the text obtains the value from the user inputted value," and concludes that "[t]herefore, Kougiouris teaches checking whether a corresponding method obtains a value." Ans. 19.

We agree with Appellants that the rejection fails to show prima facie anticipation for the subject matter of claim 11, in that Kougiouris has not been demonstrated to disclose *checking* an *identified method* as claimed. Claims 12 and 13 depend from claim 11.

Section 102 rejection of claims 14, 15, and 17-19

Appellants contend that Kougiouris does not disclose that "identifying and generating are performed based on an analysis of computer program

code, independent of execution of the computer program to provide one or more views," as recited in claim 14. Br. 18.

The Examiner finds that Kougiouris discloses outputting attributes in an HTML form in which the various attributes are listed (Figs. 5A-5C), and that the computer code is analyzed in order to determine what outputs would be generated and displayed within the GUI. Ans. 11, 20.

However, the Examiner has not shown that Kougiouris discloses that identifying and generating are performed independent of execution of the computer program to provide one or more views.

We agree with Appellants that the Examiner has failed to establish a prima facie case of anticipation for claim 14. Claims 15 and 17-19 depend from claim 14.

Section 102 rejection of claims 30-34 and 38

Appellants contend that Kougiouris does not disclose "automatically generating code" or "analyzing the identified operations" as recited in claim 30. Br. 20.

The Examiner finds that Kougiouris discloses a user providing text input to a GUI element which is validated by the manager before it is displayed in HTML form as shown in Figures 5A through 5C, which constitutes "automatically generating code for one or more input forms to allow a user to input at least some of the one or more user inputs" as recited in claim 30. Ans. 13, 22.

Even assuming that Figures 5A through 5C of Kougiouris show code for one or more input forms to allow a user to input at least some of the one or more user inputs, the Examiner has not provided a persuasive explanation

as to how the reference discloses that the code is automatically generated as required by claim 30.

We agree with Appellants that the Examiner has failed to establish a prima facie case of anticipation for claim 30. Claims 31-34 and 38 depend from claim 30.

CONCLUSIONS OF LAW

(1) Appellants have shown that "the form generation procedure being independent and antecedent to a user's interaction with the computer program" as recited in claims 37 and 38 is supported by the application as originally filed.

(2)   Appellants have not shown that "creating code" as recited in claim 1 excludes initially creating the code as disclosed by Kougiouris.

(3)   Appellants have shown that the Examiner has failed to establish that Kougiouris discloses "checking, for each identified method that sets a value, whether a corresponding identified method obtains the value" as recited in claim 11.

(4)   Appellants have shown that the Examiner has failed to establish that Kougiouris discloses "identifying and generating are performed based on an analysis of computer program code, independent of execution of the computer program to provide one or more views" as recited in claim 14.

(5)   Appellants have shown that the Examiner has failed to establish that Kougiouris discloses "automatically generating code" as recited in claim 30.

<div align="center">DECISION</div>

The rejection of claims 37 and 38 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement is reversed.

The rejection of claims 1, 2, 4-10, and 37 under 35 U.S.C. § 102(e) as being anticipated by Kougiouris is affirmed.

The rejection of claims 11-15, 17-19, 30-34, and 38 under 35 U.S.C. § 102(e) as being anticipated by Kougiouris is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

<div align="center">AFFIRMED-IN-PART</div>

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